

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,

Plaintiff,

V.

DELL TECHNOLOGIES INC., DELL
INC., AND EMC CORPORATION,

Defendants.

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CIVIL ACTION NO. 6:20-cv-404

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, files this Complaint for Patent Infringement against Dell Technologies Inc., Dell Inc., and EMC Corporation (collectively, “Defendants”) and alleges:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

THE PARTIES

2. Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 605 Austin Avenue, Suite 6, Waco, Texas 76701.

3. On information and belief, defendant Dell Technologies Inc. is a Delaware corporation with a principal place of business at One Dell Way, Round Rock, Texas 78682.

4. On information and belief, defendant Dell Inc. is a Delaware corporation with a principal place of business at One Dell Way, Round Rock, Texas 78682. Dell Inc. is wholly owned by its corporate parent, Dell Technologies Inc.

5. On information and belief, defendant EMC Corporation is a Massachusetts corporation with a principal place of business at One Dell Way, Round Rock, Texas 78682. EMC Corporation is wholly owned by its corporate parent, Dell Technologies Inc.

JURISDICTION AND VENUE

6. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 284, and 285.

7. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has specific and general personal jurisdiction over each defendant pursuant to due process and/or the Texas Long Arm Statute, because each defendant has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over each defendant would not offend traditional notions of fair play and substantial justice because each defendant has established minimum contacts with the forum. For example, on information and belief, each defendant has committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

9. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§1391 and/or 1400(b). Each defendant has established places of business in the Western District of Texas. Each defendant is registered to do business in Texas. Upon information and belief, each defendant has transacted business in this District and has committed acts of infringement in this District.

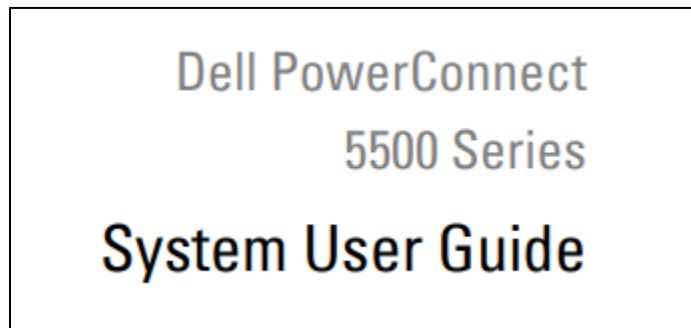
COUNT ONE - INFRINGEMENT OF
U.S. PATENT NO. 7,212,536

10. Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

11. On May 1, 2007, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,212,536 (“the ‘536 Patent”), entitled “User Priority Mapping in Bridged VLANs.” A true and correct copy of the ‘536 Patent is attached as Exhibit A to this Complaint.

12. Brazos is the owner of all rights, title, and interest in and to the ‘536 Patent, including the right to assert all causes of action arising under the ‘536 Patent and the right to any remedies for the infringement of the ‘536 Patent.



13. Defendants make, use, sell, offer for sale, import, and/or distribute in the United States, including within this judicial district, products such as, but not limited to, networking switches, including but not limited to, the Dell PowerConnect 5500 Series switches (collectively, the “Accused Products”).



https://servak.com.ua/image/manual/Switch/%D0%9A%D0%BE%D0%BC%D0%BC%D1%83%D1%82%D0%B0%D1%82%D0%BE%D1%80_DELL_PowerConnect_5548_48_port_Gigabit_USer_Guide_Servak.pdf

PowerConnect 5500 Series Ethernet Switches

Solving issues across your multi-vendor network
Learn how you can resolve technical issues stemming from third-party networking vendors such as Cisco, Brocade, Juniper and Aruba >

 <p>PowerConnect 5524 24-port Managed Gigabit Ethernet switch with 2 SFP+ Ports (10GbE/1GbE), resilient stacking and 10Gigabit Ethernet capabilities</p> <p>Customize It</p> <p>Details on PowerConnect 5524 Switch</p> <ul style="list-style-type: none"> • Flexible, wire-speed, energy-conscious gigabit switching with robust security, stacking and management features • Comprehensive routing and switching protocol support with optional external redundant power for high availability 	 <p>PowerConnect 5548 48-port Managed Gigabit Ethernet switch with 2 SFP+ Ports (10GbE/1GbE), resilient stacking and 10Gigabit Ethernet capabilities</p> <p>Customize It</p> <p>Details on PowerConnect 5548 Switch</p> <ul style="list-style-type: none"> • Flexible, wire-speed, energy-conscious gigabit switching with robust security, stacking and management features • Comprehensive routing and switching protocol support with optional external redundant power for high availability
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<https://www.dell.com/us/en/bsdr/networking/switch-powerconnect-5500/cp.aspx?refid=switch-powerconnect-5500&cs=04S2&s=bsdr>

14. The Accused Products support virtual LANs for logical network segmenting. For example, Voice VLAN is a feature on the Power Connect 5500 Series switches that utilize Class of Service (CoS) to prioritize VoIP traffic within the switch.

Virtual LAN Overview

A VLAN is a switched network that is logically segmented on an organizational basis, by functions, project teams, or applications rather than on a physical or geographical basis. For example, all workstations and servers used by a particular workgroup team can be connected to the same VLAN, regardless of their physical connections to the network, or the fact that they might be intermingled with other teams. Reconfiguration of the network can be done through software rather than by physically unplugging and moving devices or wires.

A VLAN can be thought of as a Broadcast domain that exists within a defined set of switches. A VLAN consists of a number of end systems, either hosts or network equipment (such as bridges and routers), connected by a single bridging domain. The bridging domain is supported on various pieces of network equipment; for example, LAN switches that operate bridging protocols between them with a separate bridge group for each VLAN.

VLANs are created to provide the segmentation services traditionally provided by routers in LAN configurations. VLANs address scalability, security, and network management. Routers in VLAN topologies provide broadcast filtering, security, address summarization, and traffic flow management.

None of the switches, within a defined group, will bridge any frames, not even broadcast frames, between two VLANs.

15.

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Voice VLAN is a feature on the PowerConnect 55xx Series switches that utilizes Class of Service (CoS) to automatically prioritize VoIP traffic within the switch. This feature helps to prevent poor call quality when there is a mixed traffic environment and high bandwidth utilization on the switch. It also introduces

simplicity to adding VoIP phones to the network with little or no configuration.

<https://www.dell.com/support/article/us/en/04/sln292972/configuring-dell-powerconnect-5500-series-switches-for-voice-vlan?lang=en>

16. The Accused Products use policies to support per-flow QoS. A policy consists of one or more class maps that define a flow with one or more associated Access Control Lists (ACLs). An Access Control Element (ACE) may refer to a classification rule and its action. Packets that match ACL rules in a class map with permit (forward) action, belong to the same flow, and are subject to the same quality of service action. A policy can contain one or more flows, each with a user-defined QoS action.

Advanced Mode Overview

In Advanced mode, the switch uses policies to support per-flow QoS. A policy and its components have the following characteristics and relationships:

- A policy contains one or more class maps.
- A class map defines a flow with one or more associated ACLs. Packets that match the ACL rules (ACEs) in a class map with Permit (forward) action, belong to the same flow, and are subject to the same quality of service action. A policy can contain one or more flows, each with a user-defined QoS action.
- The QoS of a class map (flow) may be enforced by the associated policer. There are two type of policers, as described in "Defining Class Mapping Using CLI Commands" on page 674.
- Per-flow QoS actions are applied to flows by binding the policy maps to the desired ports. A policy map and its class maps can be bound to one or more ports, but each port is bound with, at the most, one policy map.

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17. The Accused Products provide port profiles as a convenient way to save and share a port configuration. Port profiles can be applied to a specific interface, a range of interfaces, or globally.

Port profiles provide a convenient way to save and share a port configuration. When a port profile, which is a set of CLI commands having a unique name, is applied to a port, the CLI commands contained within the profile (macro) are executed and added to the Running Configuration file.

Port profiles can be applied to a specific interface, a range of interfaces, or globally.

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18. Once the policies are created, they may be bound to interfaces and activated on them.

Policy Binding

After policies are created, they must be bound to interfaces (ports or LAGs). When a policy is bound to a specific interface, it becomes active on it (subject to time range restrictions). Only one policy can be active on a single interface, but a single policy can be bound to more than one interface.

When a policy is bound to an interface, it filters and applies QoS to ingress traffic that belongs to the flows defined in the policy. The policy does not apply to traffic egress to the same port.

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19. Ports can support a trunk mode, which may belong to multiple VLANs. Trunk ports accept tagged and untagged frames. Untagged frames will be classified to the VLAN whose VLAN ID (VID) is configured as the port's PVID. Frames, sent from the port in the VLAN, whose VID is the current PVID, are sent untagged. Frames sent in all other VLANs active on the port are sent tagged.

- **Trunk Ports**

Ports set to Trunk mode may belong to multiple VLANs. The default VLAN membership of a trunk port is all VLANs (1-4094). A PVID must be set on the port (it can be a non-existing VLAN). Trunk ports accept tagged and untagged frames. Untagged frames will be classified to the VLAN whose VLAN ID (VID) is configured as the port's PVID.

Frames, sent from the port in the VLAN, whose VID is the current PVID, are sent untagged. Frames sent in all other VLANs active on the port are sent tagged.

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20. For example, it is possible to change the CoS settings for the Voice VLAN and remark traffic on the egress and set priorities to forward the data frames. Further, if an administrator wants to utilize Differentiated Services Code Point (DSCP) for prioritization, the default global switch setting of trust CoS can be changed to trust DSCP. This will allow the switch to trust a DSCP value already assigned in the layer 3 header of an incoming packet, and prioritize it based on the value assigned:

Outside of defaults, it is possible to change the CoS settings for the Voice VLAN and remark traffic on the egress, but not required. Be aware that CoS 6 is the highest priority recommended for VoIP traffic. CoS 7 is the highest priority assignable, but normally only used for control traffic and not recommended for most transit traffic. If the administrator wants to utilize Differentiated Services Code Point (DSCP) for prioritization the default global switch setting of trust CoS can be changed to trust DSCP. This will allow the switch to trust a DSCP value already assigned in the layer 3 header of an incoming packet, and prioritize it based on the value assigned. In most cases DSCP 46 or Expedited Forwarding is the value used for

VoIP prioritization. The switch already has a DSCP-to-queue mapping that allows it to map DSCP 46 to high priority queue 6. By default DSCP 46 is assigned to the same switching queue as CoS 6. This mapping table can be changed by an administrator in QoS Advanced Mode. Be aware that the trust DSCP setting affects the switch globally, and accounts for all traffic entering a switch port in trust mode. If other traffic entering the port has a higher DSCP value than the VoIP traffic the higher DSCP value wins, and that traffic will be prioritized first. For more information about QoS settings see the PowerConnect 55xx User Guide at <https://support.dell.com/manuals>.

<https://www.dell.com/support/article/us/en/04/sln292972/configuring-dell-powerconnect-5500-series-switches-for-voice-vlan?lang=en>

21. In view of preceding paragraphs, each and every element of at least claim 1 of the ‘536 Patent is found in the Accused Products.

22. Defendants continue to directly infringe at least one claim of the ‘536 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Brazos.

23. Defendants have received notice and actual or constructive knowledge of the ‘536 Patent since at least the date of service of this Complaint.

24. Since at least the date of service of this Complaint, through its actions, Defendants have actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the ‘536 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- <https://servak.com.ua/image/manual/Switch/%D0%9A%D0%BE%D0%BC%D0%BC%>

[D1%83%D1%82%D0%B0%D1%82%D0%BE%D1%80_DELL_PowerConnect_5548_48_port_Gigabit_USer_Guide_Servak.pdf](#)

- <https://www.dell.com/support/article/us/en/04/sln292972/configuring-dell-powerconnect-5500-series-switches-for-voice-vlan?lang=en>
- <https://www.dell.com/us/en/bsdr/networking/switch-powerconnect-5500/cp.aspx?refid=switch-powerconnect-5500&cs=04S2&s=bsdr>

25. Since at least the date of service of this Complaint, through its actions, Defendants have contributed to the infringement of the ‘536 Patent by having others sell, offer for sale, or use the Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the ‘536 Patent. The Accused Products are especially made or adapted for infringing the ‘536 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the ‘536 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

- (A) Enter judgment that Defendants infringe one or more claims of the ‘536 Patent literally and/or under the doctrine of equivalents;
- (B) Enter judgment that Defendants have induced infringement and continue to induce infringement of one or more claims of the ‘536 Patent;
- (C) Enter judgment that Defendants have contributed to and continue to contribute to the infringement of one or more claims of the ‘536 Patent;

(D) Award Brazos damages, to be paid by Defendants in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by Defendants of the '536 Patent through the date such judgment is entered in accordance with 35 U.S.C. § 284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. § 284;

(E) Declare this case exceptional pursuant to 35 U.S.C. § 285; and

(F) Award Brazos its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: May 19, 2020

Respectfully submitted,

/s/ James L. Etheridge

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